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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,320	07/28/2003	Robert A. Luehrsen	005345.00007	4433
22908	7590	04/24/2006	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			DEVORE, PETER T	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/628,320	LUEHRSEN ET AL.
	Examiner	Art Unit
	Peter T. DeVore	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 April 2006.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Specification***

The disclosure is objected to because of the following informalities: on page 17, line 4, "scale 29" should be "scale 28"; and on page 19, line 4, "HMI 28" should be "HMI 29".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claim 1 (and claims 2-6 and 8 which depend therefrom) as amended on 4/11/06 requires " a sensor for detecting the amount of material dispensed". However, the originally filed specification states only that the sensor detects the presence of material, not the amount (see specification page 13, lines 17-21, page 16, lines 23-25, page 19, lines 14-17, and page 22, lines 3-5). Furthermore, the originally filed claims do not recite the sensor at all. For these

reasons, the claim recitation directed to the sensor detecting the amount of material is considered new matter. Similarly, claim 7 as amended on 4/11/06 requires “utilizing a sensor to detect an amount of material directed”, claim 9 (and claims 10-13 which depend therefrom) as amended on 4/11/06 requires “a sensor for detecting the amount of material discharged”, and claim 15 added on 10/15/05 requires “a sensor for detecting the amount of material discharged”. These recitations are also considered new matter for the reasons discussed *supra*.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gott in view of Grunert.

Regarding claim 19, the Gott reference discloses a formulation dispenser (Fig. 2) comprising pressure responsive valve 6 (see col. 4, lines 16-27), controlled by a human/machine interface/computer (see col. 4, lines 28-34), but does not disclose that the pressure responsive valve opens rollingly. However, the Grunert reference discloses a pressure responsive valve that opens rollingly at flex region 39 (see Fig. 2), such design minimizing the noise of the valve as it is actuated (see Grunert col. 5, lines 46-54). It would have been obvious to modify the Gott device to employ pressure

responsive valves that open rollingly in view of Grunert to minimize valve noise.

Regarding claim 20, the Gott device further comprises actuator/pump 2 which exerts pressure on the material (see Gott col. 3, lines 23-30).

Claims 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gott in view of Grunert and Edwards.

Regarding claims 14 and 16, the Gott reference discloses a formulation dispenser (Fig. 2) comprising a material container 3, a pressure responsive valve 6 (see col. 4, lines 16-27), a scale for detecting the amount of material discharged through the valve and communicating with a human/machine interface/computer (see col. 4, lines 28-34), but does not disclose that the pressure responsive valve opens rollingly or that the human/machine interface further controls additional amounts of material dispensed through the valve. However, the Grunert reference discloses a pressure responsive valve that opens rollingly at flex region 39 (see Fig. 2), such design minimizing the noise of the valve as it is actuated (see Grunert col. 5, lines 46-54). It would have been obvious to modify the Gott device to employ pressure responsive valves that open rollingly in view of Grunert to minimize valve noise. Additionally, the Edwards reference teaches a similar dispenser wherein additional amounts material are dispensed through the valve after weighing if the amount of material is under-weight (see Edwards col. 20, lines 43-49) for more precise dispensing of the required amount of material. It would have been obvious to modify the Gott device such that the human/machine interface further controls additional amounts of material dispensed through the valve in view of Edwards for more precise dispensing of the required amount of material. Regarding

claim 18, the Gott device further comprises actuator/pump 2 which "pushes" the material (see Gott col. 3, lines 23-30).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gott in view of Grunert and Edwards as applied to claim 14 above, and further in view of Rossetti.

The Gott reference discloses a formulation dispenser as discussed supra, but does not disclose that the material container includes a material bag. However, the Rossetti reference discloses a similar dispenser wherein the material container includes material bag 8 to eliminate drying of adhered material on the container wall as the material is used (see Rossetti col. 1, lines 59-67). It would have been obvious to employ a material bag with the material container of the modified Gott device in view of Rossetti to eliminate drying of adhered material on the container wall as the material is used.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T. DeVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pd Pd

Petr J. Yu